



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
California State Office
2800 Cottage Way, Suite W-1623
Sacramento, CA 95825
www.blm.gov/ca



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To: All BLM-CA District and Field Managers
Attn: All BLM-CA Archeologists

From: State Director

Subject: The Use of Dogs to Detect Subsurface Prehistoric Human Remains in an Archaeological Context

This Information Bulletin (IB) clarifies issues regarding the use of dogs trained to detect the presence of archaeological human remains on lands administered by the Bureau of Land Management, California (BLM-CA).

Background

Several Native American tribes, in consultation with the BLM-CA, requested and were granted permission to utilize detection dogs to locate prehistoric human remains on BLM-CA managed lands. The assumption of these tribes is that when a dog “alerts,” that subsurface prehistoric Native American human remains are present. The requesting tribes object to excavation to verify the presence of human remains. Not all Native American tribes agree that this technique is appropriate and some are requesting that detection dogs not be utilized.

The use by law enforcement of detection dogs to search for modern human remains has had only varying degrees of success due to the complex interaction between the environment, the training and experience of the dog, the skill of the handler, and other variables. While the BLM is aware that it has been used experimentally to detect recent historic burial sites, we are not aware of any comprehensive scientific validation of the method to detect neither prehistoric skeletal materials nor cremation sites. Additionally, there are no claims that the ethnic origin of human remains can be established using detection dogs. Without a determination that the remains are Native American, the protections and requirements under the Native American Graves Protection and Repatriation Act (NAGPRA) cannot be invoked.

The use of dogs for detecting prehistoric human remains has not been well documented nor has its efficacy been tested scientifically. Science plays an important role in BLM-CA resource planning and management decision making for both surface and subsurface resources. The BLM-CA managers use science, as well as other information and considerations, in a management process that allows decisions to better fit on-the-ground conditions, current social and political scenarios, and available management options. Science should represent an objective, unbiased investigation into a subject. The collection and

analysis of scientific data can be used to evaluate alternative hypotheses about the causes or consequences of observed conditions. As part of the scientific process, scientists obtain, analyze, and interpret information that, in turn, can be used to understand the potential consequences of management decisions. Further, scientific evaluation can determine if the management practices implemented were successful in moving toward or achieving the desired objective.

Statutory and Regulatory Requirements

The Federal Land Policy and Management Act of 1976 (FLPMA) often refers to science and implies the need for scientific data to adequately implement the intent of the statute. FLPMA and NEPA mandates require the use of credible information and a scientific basis for making judgments, comparisons, and analyses. The Data Quality Act of 2001 (Sec. 515, P.L. 106-554) requires Federal agencies to ensure and maximize “the quality, objectivity, utility, and integrity of information (including statistical information) disseminated.” The DOI Strategic Plan for 2007 to 2012 states that science is the foundation for the Department’s four mission areas of resource protection, resource use, recreation, and serving communities. Secretarial Order No. 3305 states that the scientific information will be as robust, of the highest quality, and the result of the most rigorous scientific processes as can be achieved within the available decision time frame.

Experimental Archaeology

Any new remote sensing method has the potential to be useful but the validity of the method can only be established if the findings can be tested. Experimental archaeological usage of detection dogs by Cultural Resources Use Permit holders must follow scientific testing and replication standards. Until such time that the method results in a standard high probability (85 percent) of successful detection, BLM-CA will not require an applicant for a right-of-way or a contractor to obtain or utilize this type of data nor will BLM-CA issue a specific permit for this activity.

Field Work Authorization

Like any other remote sensing method, if the findings are to be used in decision making by the BLM, Field Offices should request a written work plan prior to a survey (BLM Manual 8150.12E.3). The work plan should demonstrate how the results of dog alerts would be archaeologically tested in order to verify the presence or absence of human remains. If human remains are located, then the BLM shall comply with applicable state laws, NAGPRA at 43 CFR 10, and ARPA at 43 CFR 7, and follow the procedures found in the California Protocol Agreement. If not, standards of identification and evaluation apply (BLM Manual 8110).

If you have any questions regarding this IB, please contact Dr. Charlotte Hunter, Deputy Preservation Officer at (916) 978-4648.

Signed by:
Angie Lara
Associate State Director

Authenticated by:
Richard A. Erickson
Records Management